

APPEAL NO. 040198
FILED MARCH 22, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 5, 2004. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable injury in the form of an occupational disease; that the date of injury pursuant to Section 408.007 was _____; that the appellant (carrier) is not relieved of liability under Section 409.002 because the claimant timely notified the employer of her injury pursuant to Section 409.001; and that as a result of her compensable injury with a date of injury of _____, the claimant had disability from April 16 through September 16, 2003. The carrier appeals the hearing officer's determination on the disability issue, contending that the claimant's placement on inactive employment status by the employer was solely due to permanent work restrictions resulting from a prior compensable injury to the claimant's right shoulder. The claimant asserts that sufficient evidence supports the hearing officer's decision on the appealed disability issue. There is no appeal of the hearing officer's determinations that the claimant sustained a compensable injury in the form of an occupational disease; that the date of injury was _____; and that the claimant timely notified her employer of her injury.

DECISION

Affirmed.

The claimant had the burden to prove that she had disability resulting from the compensable occupational disease injury with a date of injury of _____. Section 401.011(16) defines "disability" as "the inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage." The Appeals Panel has held that the claimant need not prove that the compensable injury was the sole cause of disability, only that it was a producing cause. Texas Workers' Compensation Commission Appeal No. 012689, decided December 20, 2001. In the instant case, the hearing officer could consider the fact that, despite the prior compensable shoulder injury, the claimant was able to perform her light-duty job with the employer up until the time that she sustained the occupational disease injury to her right thumb that is the subject of the current claim, and that after the injury to her right thumb a medical report reflected a new work restriction of no grasping/squeezing with her right hand due to the injury to the right thumb. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. We conclude that the hearing officer's decision on the appealed disability issue is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **TRAVELERS INDEMNITY COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Robert W. Potts
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Edward Vilano
Appeals Judge